



TOWNSHIP OF UPPER UWCHLAN
BOARD OF SUPERVISORS
REGULAR MEETING,
CONDITIONAL USE HEARINGS

January 19, 2016 (Tuesday)
7:00 p.m.

Approved

Attending:

Board of Supervisors

Kevin C. Kerr, Member
Guy A. Donatelli, Member
Jamie W. Goncharoff, Member
(via telephone)

Kristin Camp, Esq. Township Solicitor
Arlene LaRosa, Court Stenographer

John Snook, Brandywine Conservancy
Sheila Fleming, Brandywine Conservancy
Chris Williams, McMahon Associates

Township Administration

Cary B. Vargo, Township Manager
Gwen A. Jonik, Township Secretary
John DeMarco, Police Chief
Jill Bukata, Township Treasurer
Mike Heckman, Director of Public Works
Al Gaspari, Codes Administrator
Dave Leh, P.E., Township Engineer

Mr. Donatelli called the meeting to order at 7:00 p.m., led the Pledge of Allegiance, and offered a moment of silence.

Mr. Donatelli advised the audience of Mr. Jamie Goncharoff's attendance and participation by telephone.

Approval of Minutes

Mr. Kerr moved, seconded by Mr. Goncharoff, to approve as presented the minutes of the December 8, 2015 Board of Supervisors Workshop, the December 21, 2015 Board of Supervisors Meeting and the January 4, 2016 Board of Supervisors Organization Meeting. The Motion carried unanimously.

Approval of Payments

Mr. Kerr moved, seconded by Mr. Goncharoff, to approve the payments to all vendors as listed January 15, 2016. The Motion carried unanimously.

Treasurer's Report

Jill Bukata reported a strong balance sheet, which includes the Sewer Fund General Obligation Bond proceeds. Revenues for 2015 were 102.% of budget; expenses were 103.3% of budget. We transferred over \$2.6million to the Capital Fund in 2015 and \$200,000 to the Storm Water Management Fund. Earned income tax receipts fell short of the 2015 budget and 4th Quarter invoices for athletic field use fees are being processed.

Supervisor's Report

Mr. Donatelli read the published calendar, as follows: February 9, 2016, 4:00 p.m. Board of Supervisors Workshop; February 15, 2016 Office Closed – Presidents' Day; February 16, 2016 (Tuesday) 7:00 p.m. Board of Supervisors Meeting; Christmas Tree/Yard Waste Collections are January 20, February 3, and February 17.

Administration Reports

Township Engineer's Report

Dave Leh reported that revised final land development plans have been received for the Frame Property (Toll) and revised preliminary/final land development plans for Gunner Properties' 270-290 Park Road. Both will be reviewed for the February Planning Commission meeting.

Building and Codes Department Report

Al Gaspari reported that 51 building permits were issued in December 2015, totaling \$6,235.00 in permit fees; there were 925 building permits issued in 2015, well over previous years; a lot of those permits were for re-roofing projects. The Fellowship Fields Fieldhouse is progressing, with heat, water supply and internet installed. The Wawa will be closing in the near future for interior renovations; it might take a few weeks to complete.

Police Chief's Report

Chief DeMarco reported 1,280 incidents were logged in December, including 4 criminal arrests. Chief DeMarco reminded everyone that during snow and ice events there is no parking on the roads.

Public Works Department Report

Mike Heckman reported a meeting was held in December with all of the snow plowing contractors to review territories and procedures and they've responded to 2 snow events since then. The Department is fully prepared for the major snow storm forecast for this Friday; the brining application has been changed – it will now feed onto the salt spinner so it'll be more effective and efficient. Department activities also included the installation of concrete at the Fellowship Fields Fieldhouse and installing manhole protection rings. Two new Facilities Division positions have been advertised – yesterday was the deadline for applications.

Land Development

Open Community Corp. Minor Subdivision Plan (Uppatinas). Cary Vargo explained that the minor subdivision plan is to subdivide 2 existing parcels into 3, retaining the existing buildings on one larger parcel and two new lots for two new single family homes. All parcels would have on-site water and septic systems. The Applicant seeks a waiver from providing a site analysis plan, a conservation plan and an impact plan. The Township Engineer and Planning Commission reviewed the Plan and recommend approval. Mr. Kerr moved, seconded by Mr. Goncharoff, to grant Final Minor Subdivision Approval with the following conditions:

1. The Plans shall be revised to comply with Gilmore & Associates' review letter dated January 8, 2016.
2. A waiver from Subdivision and Land Development Ordinance Section 162-9.D. which requires a site analysis, conservation plan and impact plan be provided is hereby granted.
3. The Applicant hereby agrees to pay a Traffic Impact Fee in the amount of \$3,256.96 at the time of building permit application.

The Motion carried unanimously.

Toll / Ewing Tract Escrow Release #9. Toll requests an escrow release of \$184,090.20 for infrastructure installation in the Ewing Tract Carriage Home section in Upper Uwchlan Township. The Township is going to hold back \$90,000 for Sunderland Avenue since Toll is using that roadway while constructing homes in Ewing - West Vincent Township. Mr. Kerr moved, seconded by Mr. Goncharoff, to release \$94,090.20 to Toll for this request. The Motion carried unanimously.

ADMINISTRATION

Bamboo Restrictions Ordinance. Mr. Donatelli summarized the Ordinance, which restricts the growing of certain types of "running" bamboo near property lines and roadways. This topic has been discussed at previous meetings over the past few months as there are several locations in

the Township where this type of bamboo plant has become a nuisance and/or safety issue. Mr. Kerr moved, seconded by Mr. Goncharoff, to adopt Ordinance #2016-01 which governs the growing of 'running bamboo'. The Motion carried unanimously.

Open Session

A woman asked if she could comment at this time on the 270-290 Park Road application and was advised to wait for the Hearing to begin.

Adjournment

Mr. Donatelli adjourned the regular business meeting at 7:14 p.m. and announced a short recess would be taken to set up for the first Conditional Use Hearing – The Hankin Group Application.

Conditional Use Hearing – The Hankin Group

Mr. Donatelli asked Kristin Camp, Esq., to conduct the Conditional Use Hearing for The Hankin Group, which was continued from the December 21, 2015 Hearing, seeking a manufacturing use on Eagleview Corporate Center Lot #1. The Hearing commenced at 7:25 p.m. Arlene LaRosa, Court Stenographer, recorded the proceedings.

Ms. Camp summarized the Conditional Use Application and advised the audience and for the Record that Mr. Jamie Goncharoff was participating via telephone, that Steve McNaughton had been granted Party Status, and that Mr. Goncharoff had been in attendance and heard the testimony at the December 21, 2015 Hearing, though he wasn't yet a Supervisor. The Hankin Group's Solicitor, Mike Malloy, accepted this. Ms. Camp asked if anyone else wanted to become a Party of Status. Robert Schoenberger and Rhys Williams desired to do so, and Mr. Malloy accepted their becoming Parties.

The following representatives of The Hankin Group and DSM Biomedical, the proposed tenant for the building currently under construction on Lot #1, were in attendance: Mike Malloy, Esq., General Counsel for The Hankin Group; Neal Fisher, P.E. and Vice President of Development, The Hankin Group; Jerry Madden, DSM Biomedical Director of Facilities and Maintenance; and Mr. Terry Black, ERM Consulting, an environmental firm.

Mr. Malloy summarized the Application and events to date: Manufacturing is permitted in the PI District if it meets ordinance requirements and isn't a threat to the health, safety, or wellness of neighbors. Any venting from the process is so minimal that air quality permits aren't necessary, even in California where this manufacturing has been taking place. Since the previous Hearing, Mr. Madden hosted a tour of DSM's existing facility, to assure protestors of the safety for the employees and the neighbors. The material to be manufactured is silicone hydrogel, which eventually becomes a contact lens. If there would be any type of safety-related incident, it would be inside the building and damage product, an economic loss.

Neal Fisher provided testimony regarding the design of the building currently under construction on Lot 1 and the screening of an outdoor storage area, which is proposed at the rear of the building, toward the cul-de-sac.

Mr. McNaughton questioned the design of the outdoor storage area and what it will contain.

Jerry Madden provided testimony regarding DSM's compliance with the State and Federal safety standards necessary to get permitted, and that the outdoor storage area might contain 2 acetone tanks (for use in their cleaning process), 1 waste acetone tank, 1 nitrogen tank, and 2 aqueous waste tanks – water waste, not flammable. While acetone is flammable it is not explosive.

Mr. McNaughton requested the Hearing be terminated since the current zoning requirements regarding outdoor storage aren't being met. Ms. Camp and Mr. Donatelli advised that

Conditional Use Applications have to be accepted and testimony heard. The Board considers all of the testimony prior to deciding to grant or deny the Application.

Mr. Schoenberger and Mr. Williams wanted to hear further expert witness testimony.

Mr. Terry Black provided testimony regarding air quality, environmental testing, proper tank construction and storage of acetone. He has previously worked for DEP's Air Quality program. In summary, for acetone, outdoor tank storage and filling through a closed system is preferred to transporting it in 55-gallon drums and transferring it into smaller buckets. Acetone wouldn't explode, it would just burn and eventually burn itself out.

Mr. Goncharoff questioned the number of permits Mr. Black was involved in issuing, what other agencies evaluate outside storage tanks, and how many acetone fires occurred in the State over the years. Mr. Black was involved in just a few permits, another agency involved in evaluating outside storage tanks is the PaDEP Storage Tanks Program, and Mr. Black didn't recall any specific acetone fires.

Mr. McNaughton questioned whether or not acetone is always in the air. Mr. Black replied yes, at some level.

Mr. Schoenberger questioned when ERM was retained by the Applicant. ERM was retained several weeks ago.

There were no further questions or testimony to be presented at this time. Ms. Camp advised that the Hearing would be continued to February 16, 2016, at 7:15 p.m. At that time, Parties of Status can present evidence and there can be further testimony regarding acetone and the zoning amendment for outdoor storage. No further advertising or notices will be provided. Parties can submit questions outside the Hearing, which could be answered at the Hearing and entered into the Record. Tonight's Hearing was adjourned at 9:05 p.m.

A short recess was taken. The Board reconvened at 9:10 p.m.

Conditional Use Hearing – Gunner Properties 270-290 Park Road

Mr. Donatelli asked Kristin Camp, Esq., to conduct the Conditional Use Hearing for Gunner Properties. The Hearing commenced at 9:10 p.m. Arlene LaRosa, Court Stenographer, recorded the proceedings. Ms. Camp reminded the audience and for the Record that Mr. Jamie Goncharoff was participating via telephone.

Ms. Camp stated the Conditional Use Application seeks approval to construct 44 townhomes on 3 currently vacant parcels on Park Road, in the C1 Village Commercial District, and approval to reduce the setback of the garages to 20 feet from the sidewalk/roadway.

Alyson Zarro, Esq. – Riley Riper Hollin and Colagreco, Fred Gunther – Gunner Properties, Chase Gunther – Gunner Properties, Denny Howell, P.E. – D.L. Howell & Associates, Frank Tavani, P.E., F. Tavani & Associates, and Mike Ryan – ARGUS Property Group, were in attendance.

Ms. Zarro distributed the Applicant's exhibits to the Board of Supervisors. Ms. Camp entered the following Board's exhibits into the Record. Ms. Zarro accepted the Board's exhibits.

- B-1 Conditional Use Application dated October 26, 2015
- B-2 Letter from Alyson Zarro amending the Application, dated December 9, 2015
- B-3 Email from Alyson Zarro granting Hearing extension, dated December 15, 2015
- B-4 Proof of Publication

- B-5 Affidavit of Property Posting
- B-6 Preliminary/Final Land Development Plan for Gunner Properties dated October 26, 2015
- B-7 Historic Commission November 23, 2015 Meeting Minutes
- B-8 Planning Commission December 10, 2015 Meeting Minutes
- B-9 Gilmore & Associates Letter dated December 4, 2015
- B-10 Chester County Planning Commission Letter dated December 14, 2015

Ms. Camp asked if anyone was interested in become a Party to the Proceedings. Those who live near, within 300'-500' of the property, can become a Party, which provides them with the opportunity to present their own evidence or appeal the Board's decision on this Application. John Fincke of 5 Autumn Lane and Keith Ripper of 7 Autumn Lane requested Party status. Ms. Zarro reserved an objection regarding both Parties.

Ms. Zarro presented the Applicant's request which proposes 44 townhomes, an allowable use in the C1 Village Commercial District, plus modification of the bulk/area requirements regarding the garage setback. Garage setback requires 40', however in this design, 20' should be adequate. Ms. Zarro entered the Applicant's exhibits into the Record, and proceeded to question the Applicant and his representatives. Testimony is summarized as follows.

Mr. Gunther purchased the vacant parcels, as well as the parcels on Park Road between Little Conestoga Road and Route 100, for development and re-development, envisioning a walkable, village-type setting.

Mr. Howell provided testimony regarding the design of the development – 44 townhomes, 28 units (7 4-packs) will have 2-car garages and 3 bedrooms, 16 units (2 8-packs) will have 1-car garages and 2-3 bedrooms, 5' sidewalks, 20' wide driveways and garages, 28' wide road, 142 parking spaces (includes garages), guest parking areas, public water, public sewer, not proposing to widen Park Road. The reduced driveway length and road width lessen the impervious coverage and provide more room for the homes and open space.

Mr. Fincke questioned if the development would be screened. Mr. Howell advised the perimeter would include the required landscaping/screening.

Mr. Ripper questioned the road width, on-street parking, storm water management measures, and public sewer availability. Mr. Howell advised the 28' wide road will be a private road, no on-street parking, the storm water will be handled through underground seepage beds, and there is public sewer capacity available.

Mr. Tavani provided testimony that there is adequate sight distance entering and exiting the proposed development, however minimally modifying a small berm to the west would further improve the sight distance exiting the development, and the level of service at the nearby signalized intersections is rated acceptable.

Mr. Fincke believes there to be a gas pipeline right-of-way along the property line. He questioned the traffic study timing, which was done during peak hours while school was in session.

Mr. Ryan provided testimony regarding the design of the townhomes - 24' wide buildings, the proposed 6,400 SF will be reduced to 6,000 SF maximum, there will be a differentiation of rooflines, the facades will be brick fronts and cement board on sides and rear, asphalt shingle roofs, trash containment and HVAC will be hidden.

Attendee questions and comments included:

Ms. Grimm commented that she hopes the trees on these parcels wouldn't be disturbed as they provide for osprey habitat and ospreys are an endangered or threatened species.

Brandywine Conservancy reserved comment for the next Hearing.

Mr. Turocy questioned the availability of public sewer to new developments versus older neighborhoods and commented that garbage disposals shouldn't be allowed.

Mr. Strauss commented on the density of the development (8+ units/acre) and lack of open space and wastewater disposal area. He commented that if approved, the school zone needs to be noted.

Ms. Camp asked the Board if the Hearing should be continued or closed. Mr. Donatelli would like the Hearing continued. Ms. Camp announced the Hearing would be continued to Tuesday, February 16, 2016, at 8:30 p.m. Ms. Zarro advised that Mr. Tavani isn't available February 16. Ms. Camp advised that the Township's Consultants may make a presentation if desired.

No further notices or publications will be sent.

Adjournment

Mr. Donatelli adjourned the Evening at 10:30 p.m.

Respectfully submitted,

Gwen A. Jonik,
Township Secretary